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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,867	10/30/2003	George Paskalov	100798.0008US1	2026
24392	7590	10/03/2007		
FISH & ASSOCIATES, PC ROBERT D. FISH 2603 Main Street Suite 1050 Irvine, CA 92614-6232			EXAMINER WONG, EDNA	
			ART UNIT 1753	PAPER NUMBER
			MAIL DATE 10/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/698,867	Applicant(s) PASKALOV ET AL.	
	Examiner Edna Wong	Art Unit 1753	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

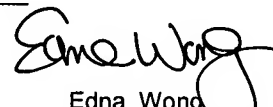
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 12-20.
Claim(s) withdrawn from consideration: 1-11.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See pages 2-6.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Edna Wong
Primary Examiner
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ADVISORY ACTION

This is in response to the Amendment dated September 26, 2007. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Response to Arguments

Election/Restrictions

This application contains claims 1-11 drawn to an invention nonelected without traverse in the reply filed on February 13, 2007.

Claim Rejections - 35 USC § 112

I. Claims 12-20 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The rejection of claims 12-20 under 35 U.S.C. 112, first paragraph, is as applied in the Office Action dated August 22, 2007 and incorporated herein. The rejection has been maintained for the following reasons:

Claim 12

lines 7-8, recite "without subjecting the waste directly to the plasma generated by

the RF plasma wave generator”.

Applicants state that there is no reason whatsoever to believe that the plasma is allowed to escape from the generator, or that any of the waste is allowed to seep into the plasma generator.

In response, if the prior art was known to subject a waste directly to the plasma generated by a RF plasma wave generator and allow any of the waste to seep into the plasma generator, then there would have been reason to believe that Applicants' method was following what was conventionally done in the art. It was only after the Examiner's first Office Action that Applicants' claim 12 was amended to comprise the limitation of “without subjecting the waste directly to the plasma generated by the RF plasma wave generator”. Applicants' specification does not disclose this limitation. This limitation in the claim lacks literal basis in the specification as originally filed, see *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983) *aff'd mem.* 738 F.2d 453 (Fed. Cir. 1984).

Applicants state that the Examiner argued that Applicant did not provide the page number and line numbers from the specification that supported the newly added limitation. Support for the previously presented amendment in claim 12 and the answer to the Examiner's question can be found on page 4, line 22 - page 5, line 27.

In response, page 4, line 22 - page 5, line 27 recite:

Upon release of the fluid waste from the tank through one-way output valve 134, **the waste flows into conduit 140 where it is carried past the waves of the**

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RF plasma generator 150. It should be noted that waste can be carried past the waves in at least two substantially separate streams (*i.e.* a basic stream and an acidic stream) and then recombined after being subjected to the waves. The basic frequency of the plasma is preferably between 0.44 MHz and 40.68 MHz, and the plasma is preferably modulated at a frequency between 10 kHz and 34 kHz. Flow rates typically range from 20 l/hr to about 2000 l/hr, although multiple configurations and sizes of device are also contemplated, so that lower and higher flow rates are possible.

The paragraph says that the waste is carried past the waves of the plasma, but it says nothing about without subjecting the waste directly to the plasma.

II. Claims **12-20** have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The rejection of claims 12-20 under 35 U.S.C. 112, first paragraph, has been withdrawn in view of Applicants' remarks.

III. Claims **12-20** have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claims 12-14 and 18-19, the rejection under 35 U.S.C. 112, second paragraph, has been withdrawn in view of Applicants' amendment.

With regards to claims 15-17 and 20, the rejection under 35 U.S.C. 112, second

paragraph, is as applied in the Office Action dated August 22, 2007 and incorporated herein. The rejection has been maintained for the following reasons:

Claim 15-17 and 20

lines 1-2, respectively, recite "***treating the waste*** at a rate of at least 20 l/hr".

Claim 12, lines 4-6, recite "carrying the waste past waves radiated by the RF plasma wave generator ***under conditions*** in which a substantial percentage of the population of a microbe in the waste is inactivated or killed, ***to produce a treated waste***".

It is still unclear if treating the waste at a rate of at least 20 l/hr is further limiting the conditions of carrying the waste past the waves radiated by the RF plasma generator because if it was, then claims 15-17 and 20 would have recited -- wherein the conditions comprise -- instead of "further comprising".

The words "further comprising" makes the treating step an added or extra method step that has nothing to do with the carrying step, esp., when the carrying step produces a treated waste. Isn't the treating step producing the same treated waste as in the carrying step? Also, what is happening to the waste during the treating step?

If the treating step was done before the step of providing the RF plasma wave generator, then it has nothing to do with flowing the waste into the conduit. There is no sequence required for this step.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

Claims **12-20** define over the prior art of record because the prior art does not teach or suggest a method for reducing biological contamination in an amount of waste, comprising the steps of providing and carrying as presently claimed, esp., without subjecting the waste directly to the plasma generated by the RF plasma wave generator.

The prior art does not contain any language that teaches or suggests the above. *Laroussi* does not teach without subjecting the waste directly to the plasma generated by the RF plasma wave generator. Therefore, a person skilled in the art would not have been motivated to adopt the above conditions, and a prima facie case of obviousness cannot be established.

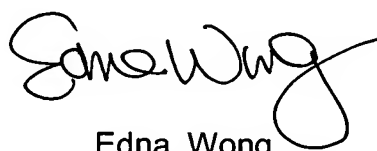
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edna Wong whose telephone number is (571) 272-1349. The examiner can normally be reached on Mon-Fri 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Edna Wong", with a stylized, flowing script.

Edna Wong
Primary Examiner
Art Unit 1753

EW
September 29, 2007